

REMARKS

The undersigned attorney wishes to thank Examiner Darren W. Ark for the courtesy of the telephone interview on January 29, 2003. During the telephone interview, the Wohead Patent No. 3,670,447, the Witkowski Patent No. 3,736,690 and the Keeton Patent No. 5,144,765 were discussed along with the applicability of those patents to independent claims 1 and 26. A variety of possible amendments were also discussed including further defining the non-detachability of the noise generating element, the unitary construction of the sinker or elongated body, the fixed or non-adjustable number of noise generating objects within the hollow member and the position of the noise generated element relative to the weighted section, among others. However, no agreement was reached as to allowability.

The amendments to the claims pursuant to this Preliminary Amendment reflect many of the amendments proposed by the undersigned during the above interview, but which were not considered by the Examiner as being sufficient to distinguish from the cited art. These amendments are being made in the present application to place the claims in better condition for appeal since the Examiner was unwilling to allow such amendments for this purpose.

For the reasons previously set forth in the prosecution of the parent application and the reasons discussed with Examiner Ark during the telephone interview, applicants believe that the claims as amended clearly distinguish from the cited art and their allowance is respectfully requested.

Respectfully submitted,

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IN THE CLAIMS

Amend claims 1 and 26 as follows:

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1. (Amended) A fishing sinker comprising:

an elongated body having a line connection end and a free end and having a buoyant section and a weighted section, said weighted section constructed of a weighted material having a density greater than that of water and being positioned closer to said free end than said buoyant section [line connection end], and

a noise generating element non-detachably connected with said weighted section at said free end by a non-detachable connection between said noise generating element and said weighted section so that said weighted section is between said buoyant section and said noise generating element, said noise generating element comprising a closed hollow member and [one or more] a fixed number of noise generating objects moveable freely within said hollow member.

26. (Amended) A fishing sinker of unitary construction comprising:

an elongated body having a line connection end and a free end, said body having a weighted section constructed at least in part of a solid weighted material having a density greater than that of water and being sufficiently weighted to cause the fishing sinker to sink in water, and

a noise generating element non-detachably connected with said elongated body at said free end by a non-detachable connection so that the entirety of said weighted section is between said noise generating element and said line connection end and said noise generating element is not removable from said elongated body, said noise generating element comprising a hollow member and [one or more] a fixed number of noise generating objects moveable freely within said hollow member.

Add the following new claims 30-35 as follows:

30. (New) The fishing sinker of claim 1 having a unitary construction.
31. (New) The fishing sinker of claim 1 wherein said line connection end includes a line connection eyelet.
32. (New) The fishing sinker of claim 1 wherein said weighted section is sufficiently weighted to cause the fishing sinker to sink in water.
33. (New) The fishing sinker of claim 1 wherein said fixed number of noise generating objects is not adjustable.
34. (New) The fishing sinker of claim 26 wherein said line connection end includes a line connection eyelet.
35. (New) The fishing sinker of claim 26 wherein said fixed number of noise generating objects is not adjustable.